



PUBLIC NOTICE

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Report No. TEL-01371NS

Thursday July 2, 2009

NON STREAMLINED INTERNATIONAL APPLICATIONS/PETITIONS ACCEPTED FOR FILING

Section 214 Applications (47 C.F.R. § 63.18); Authorize Switched Services over Private Lines (47 C.F.R. § 63.16) and Section 310(b)(4)

Unless otherwise specified, the following procedures apply to the applications listed below:

The applications listed below have been found, upon initial review, to be acceptable for filing. These applications are not subject to the streamlined processing procedures set forth in Section 63.12 of the Commission's rules, 47 C.F.R. § 63.12. These applications shall not be deemed granted until the Commission affirmatively acts upon the application, either by public notice or by written order. Operation for which authorization is sought may not commence except in accordance with any terms or conditions imposed by the Commission.

Unless otherwise specified, interested parties may file comments with respect to these applications within 28 days of the date of this public notice. We request that such comments refer to the application file number shown below. No application listed below shall be granted by the Commission earlier than the day after the date specified in this public notice for the filing of comments.

Unless otherwise specified, ex parte communications between outside parties and Commission staff concerning these applications are permitted subject to the Commission's rules for "permit-but-disclose proceedings." See 47 C.F.R. § 1.1206.

Copies of all applications listed here are available for public inspection in the FCC Reference and Information Center, located in room CY-A257 at the Portals 2 building, 445 12th Street SW, Washington DC 20554. The center can be contacted at (202) 418-0270. People with Disabilities: To request materials in accessible formats for people with disabilities (braille, large print, electronic files, audio format), send an e-mail to fcc504@fcc.gov or call the Consumer & Governmental Affairs Bureau at 202-418-0530 (voice), 202-418-0432 (tty). All applications listed are subject to further consideration and review, and may be returned and/or dismissed if not found to be in accordance with the Commission's rules, regulations, and other requirements.

International Telecommunications Certificate

Service(s): Overseas Cable Construction

Application filed by Office des postes et télécommunications de Polynésie française ("OPT") for authority to construct, acquire, and operate capacity in a common carrier fiber-optic submarine cable system directly linking the United States and French Polynesia, the Tahiti-Hawaii Cable System ("Honotua System") in accordance with section 63.18(e)(3). See SCL-LIC-20081008-00017.

OPT is an établissement public (in English, "public establishment") headquartered in Tahiti and existing under the laws of French Polynesia. French Polynesia is an overseas territory of France. OPT is wholly owned by the Government of French Polynesia, but financially autonomous from the national government. As such, OPT is subject to regulation and oversight by the Chambre territoriale des comptes de la Polynésie française ("CTC") and ultimate government control. OPT is administered by a Board of eight members, all of whom are citizens of French Polynesia.

Applicant agrees to be classified as a dominant carrier to French Polynesia under Section 63.10 of the Commission's rules, without prejudice to its right to petition for reclassification at a later date. Applicant requests, however, a waiver of section 63.10(c) which requires "any carrier classified as dominant for the provision of particular services on particular routes" to provide service along such route "as an entity that is separate from its foreign carrier affiliate...." 47 C.F.R. § 63.10(c)(1). Amended Application at 2.

According to Applicant, OPT cannot create a separate subsidiary without exposing itself to unacceptable legal and financial risk. Applicant states that the creation of new subsidiaries by OPT is unlawful under Article 30 of la loi organique (French Polynesia's constitution). *Id.* at 4. See also *id.*, n.4 (stating that the French Polynesian Government may establish an OPT subsidiary in circumstances where there is a joint venture with a private-sector entity, which is not the case with the government-owned Honotua System). With respect to financial risk, Applicant states that OPT has secured three outside sources of funding with the understanding that OPT will control and operate the Honotua System in its entirety. *Id.* at 6-7. Applicant argues that a transfer of ownership or operation would likely require renegotiation which in today's deteriorating credit market could result in the withdrawal of funding altogether. It also states that OPT has already drawn funds from a French Polynesian government grant and a commercial loan. Applicant additionally argues that section 63.10(c)'s separate subsidiary requirement does not specifically apply to submarine cables or submarine operators. *Id.* at 7. Finally, Applicant states that OPT will voluntarily commit to comply with additional competitive safeguards as a condition to the grant of its waiver request. *Id.* at 9-11.

REMINDER:

Applicants must certify that neither the applicant nor any party to the application is subject to a denial of federal benefits by federal and/or state courts under authority granted in 21 U.S.C. § 862. See 47 C.F.R. §§ 1.2001–2003.

An updated version of Section 63.09-.25 of the rules, and other related sections, is available at <http://www.fcc.gov/ib/pd/pf/telecomrules.html>